(22)

HIGH COURT OF CHHATTISGARH, BILASPUR

Cr.M.P. No.87 of 2006

Petitioner — Vibha pandey @ Vaibhav Pandey, s/o Shri Maheshwar Prasad Pandey, aged about 35 years, occupation Unemployed, resident of village Sisringa, Tahsil Dharamjaigarh, Distt. Raigarh (Chhattisgarh)

Versus

Respondents

1. State of Chhattisgarh, through- It's Secretary, Department of Forest, Dau Kalyan Singh Bhawan, Raipur (C.G.)
2. Conservator of Forest (Appellate Authority), Forest Circle- Bilaspur Division (Vrit Bilaspur) Distt.- Bilaspur (C.G.)
3. The Sub Divisional Officer (Forest) and Competent Prescribed Authority, Forest Sub Division- Lailunga, Distt.-Raigarh (C.G.)
4. Forest Range Officer, Range- Lailunga, Distt.-Raigarh (C.G.)

PETITION UNDER SECTION 482 OF THE CODE OF CRIMINAL PROCEDURE

Appearance:

Shri Rakesh Pandey, Counsel for the applicant.

Shri G.K. beriwal, counsel for the State/ respondents.

ORAL ORDER
(02.05.2007)

Sunil Kumar Sinha, J.

Heard.

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This is a petition filed u/s 482 of the Code of Criminal procedure for removal of the condition of furnishing the Bank Guarantee in the order for releasing the vehicle on *Supdrunama* passed by the competent authority and the Sub-Divisional officer, Lailunga on 8.6.2006 in connection Forest Case No.782/19, dt.03.10.2005.

A perusal of the order would show that the vehicle Maxi Pick Up bearing Regn. No.C.G.13-A/6992 was seized by the Forest Authorities in connection with the aforesaid Crime.

The allegations are that this vehicle was involved in illegal transportation of coal worth Rs.1500/-. It is an admitted fact that a proceeding for confiscation of the vehicle is pending before the competent authority and during the pendency of the said proceeding the competent authority has passed the impugned order dated 8.6.2006, according to which, amongst other conditions it has directed for production of bank guarantee of Rs.1,50,000/- by the applicant for releasing the vehicle on his *Supurdnama.*

Learned counsel for the applicant submits that the applicant is ready to fulfill all the conditions i.e. condition nos. 1 to 4, but he is unable to comply with the second part of condition no.4 which relates to production of bank guarantee. He submits that the condition is onerous, therefore, that should be removed.

In case of a vehicle or any other property, liable to be confiscated, if the concerned authority or the Court comes to the conclusion that it should be given on *Supurdnama* to the claimant, then demanding security or guarantee is only for the purpose that the vehicle or the property in question is produced in time by the temporary holder of the property as per the directions of the Court or the authority. That is to say that he is required to be imposed with such conditions, which may bind him to comply with the terms and conditions of the *Supurdnama,* on which, the Court or the authority has decided to deliver the vehicle or the property on interim custody to him. Needless to say that such terms and

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conditions should not be so harsh or onerous that the person concerned, who is claiming temporary possession of the vehicle/property in question, may not be able to comply with such conditions as are imposed by the authority or the Court.

In view of the above, I am of the opinion that demanding bank guarantee to the tune of Rs.1,50,000/- is really an onerous condition. The ends of justice would be served, if instead of furnishing a bank guarantee, the applicant is directed to furnish a solvent surety to the tune of Rs.1,50,000/- to the satisfaction of the officer concerned.

In the result, the petition is allowed. The second part of condition no.4 of the impugned order dt.8.6.2006 regarding production of bank guarantee is quashed. Instead thereof, the petitioner is directed to furnish a solvent surety to the satisfaction of the concerned authority. All other conditions of the order dated 08.6.2006 are upheld. The said order is modified to the above extent and this petition is also allowed to the extent indicated above.

This petition is finally disposed of.

Sd/-
Sunil Kumar Sinha
Judge

/Raaj